

REMARKS

In the Office Action of June 24, 2004, claim 21 was rejected under 35 U.S.C. § 112, 2nd Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In the present amendment, Applicants have amended claim 21 in order to avoid any possible confusion as to the subject matter claimed and respectfully submit that claim 21 does not suffer from any §112 deficiencies and is in condition for allowance.

Also in the Office Action, claims 1-4 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kyrtos (U.S. Patent No. 6,072,388).

Claims 5-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kyrtos in view of Magiawala, et al. (U.S. Patent No. 6,278,361).

Applicants respectfully submit that claim 1 defines over Kyrtos. Respectfully, Kyrtos does not disclose an apparatus for monitoring the condition of a tire that includes a signal processing device that produces a processing device output signal representative of a potential damage condition in the tire. Additionally, Kyrtos also does not disclose an indication device that indicates to a user of the vehicle that the tire is experiencing a damage condition.

Kyrtos provides for a method for monitoring the sounds of a driveline in order to determine whether the driveline may be experiencing a problem (see the abstract of Kyrtos). The method of Kyrtos eliminates the need for the driver to physically inspect the condition of the driveline, allows the driver to check the physical condition of the driveline while operating

the vehicle, and provides for a more time efficient, accurate, and safer way to monitor the physical condition of the driveline (see Kyrtos at Col. 1, ll. 60-67). Kyrtos defines the driveline on Col. 2, ll. 39-41 as follows:

In the present invention, a driveline includes parts that connect the transmission with the driving axles of a vehicle.

Kyrtos is therefore explicitly directed towards the driveline of a vehicle only, and discloses nothing regarding the monitoring of a tire of the vehicle or possible damage condition of the tire.

The tires of a vehicle are not included in the driveline, as the tires form no part of the vehicle that connects the transmission of the vehicle with the driving axles of the vehicle. Tires are separate, additional elements located on either end of the axles of the vehicle but form no part of the driveline as expressly defined by Kyrtos. Nowhere does Kyrtos disclose a signal processing device that produces a processing device output signal representative of a damage condition of a tire. Kyrtos only discloses a control 26 that performs computations and then generates warning signals 32a, 32b to a display 28 to indicate that the driveline may have a problem (see Kyrtos at Col. 2, ll. 55-61).

Additionally, it would not have been obvious for one having ordinary skill in the art to modify Kyrtos so that the method employed includes a signal processing device that produces a processing device output signal representative of a tire damage condiction.. As stated, Kyrtos indicates a method capable of indicating to the user of the vehicle that the driveline is experiencing a problem. Modification of the method of Kyrtos to instead determine whether the tires of the vehicle were experiencing a tire damage condition would completely change the intended purpose of Kyrtos since the method would now be concerned with the tires of the

vehicle as opposed to the driveline. If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In the present application, modifying Kyrtos in order to monitor tread belt separation as opposed to the driveline would completely frustrate the intended purpose of the reference.

Applicants respectfully submit that claim 1 defines over Kyrtos and is in condition for allowance. Further, applicants respectfully submit that all claims that depend upon claim 1 (claims 2-11) are also in condition for allowance.

As stated, claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kyrtos in view of Magiawala, et al. Applicants respectfully submit that claim 12 defines over the combination of Kyrtos and Magiawala, et al.

Magiawala, et al. does not disclose a sound monitoring device as is expressly required by claim 12. Instead, Magiawala, et al. employs signal processing circuits that obtain information from a radio accelerometer 2, a lateral accelerometer 4, and temperature and pressure sensors 6 (see Magiawala, et al. at Col. 3, l. 45 to Col. 4, l. 4). As stated, Kyrtos is concerned only with the driveline of the vehicle and makes no mention or suggestion of using the disclosed method to monitor a tire damage condition. (See Col. 2, lines 38-41). In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. Claim 12 calls for a signal processing device that produces a processing device output signal representative of a tire damage condition. This structure is not disclosed in either Kyrtos or Magiawala, et al. either individually or in combination with one another. Furthermore, there is

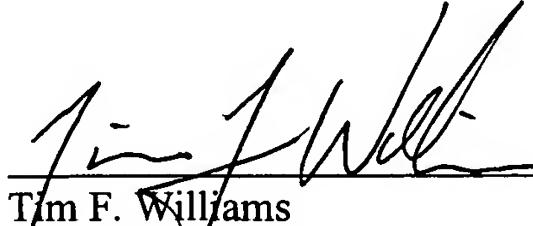
motivation to combine a reference for monitoring the sounds from a drive train (Kyrtos) with a reference for using a radio accelerometer 2, a lateral accelerometer 4, and temperature and pressure sensors 6 (Magiawala, et al.) to monitor a tire. These references are addressing two different problems in two different ways.

Therefore, Applicants respectfully submit that claim 12 defines over Kyrtos and Magiawala, et al. and is in condition for allowance. Further, applicants respectfully submit that all claims that depend upon claim 12 (claims 13-20) are also in condition for allowance.

Applicants respectfully submit that all claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at the Examiner's convenience should the Examiner have any questions concerning this matter or require any additional information.

Respectfully submitted,

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